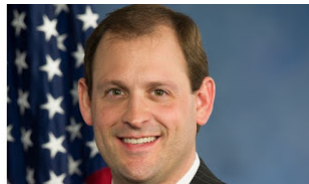


March 20, 2013 (/full-blog/2013/03/the-equine-tax-parity-act-improbable.html)

The Equine Tax Parity Act - An Improbable Improvement to the Tax Code (/full-blog/2013/03/the-equine-tax-parity-act-improbable.html)

"Congressman Andy Barr" (/full-blog?category=%22Congressman+Andy+Barr%22), "Equine Tax Parity Act" (/full-blog?category=%22Equine+Tax+Parity+Act%22), "H.R. 998" (/full-blog?category=%22H.R.+998%22), "equine capital assets" (/full-blog?category=%22equine+capital+assets%22)



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By: Amanda Stubblefield, Staff Member

In early March, freshman Congressman Andy Barr (R-KY) introduced H.R. 998, the Equine Tax Parity Act, in order to "amend the Internal Revenue Code of 1986 to reduce the holding period used to determine whether horses are § 1231 assets to twelve months."^[1] Presently, owners must hold equine capital assets for twenty-four months in order to take advantage of the preferential tax treatment for capital gains.^[2] Therefore, this proposed amendment would be a significant change -

cutting the required holding period in half. The bill has been referred to the Committee on Ways and Means.

Barr claims the change would "bring parity to the tax code for the Commonwealth's signature industry" which would result in "helping put Kentuckians back to work."^[3] The Congressman also suggests amending the tax code would "finally eliminate a 44-year-old tax provision that discourages investment in the equine industry, bringing much needed relief to an economic sector that supports 1.4 million full-time jobs."^[4]

Although this proposal would undoubtedly help the equine industry, which has been struggling over the past several years, it seems unlikely the change will be adopted. Congress made an informed and careful decision when implementing the extended holding period requirement. Congress found the "purposes for which animals are held is ambiguous... because the taxpayer cannot immediately know, for example, which part of a livestock crop will be retained for breeding purposes and which part will be sold in the ordinary course of business."^[5] Therefore, in order to address the uncertainty issue, Congress decided the typical one-year holding period "generally is not long enough to resolve the question of whether the taxpayer is holding the animal for one of the specified purposes or whether is holding it for sale."^[6] Furthermore, Congress was also concerned that the usual one-year holding period "allows taxpayers to make short-term, tax-motivated investments in cattle and horses... and thus, the taxpayer is able to convert ordinary income into capital gains through a short-term investment."^[7]

Despite the fact that most business assets need to be held for only twelve-months prior to receiving preferential capital gains treatment, there are several exceptions that were specifically placed into the tax code after careful consideration by Congress, and horses are only one part of the broad category of "livestock" subjected to the increased holding requirement in 26 U.S.C. § 1231(b)(3). Thus, although the amendment would likely benefit the equine industry, "Barr"ing any major changes it is unlikely the bill will make it past the Ways and Means Committee.

^[1] 113th Congress, H.R. 998 (March 6, 2013), *available at*: http://thomas.loc.gov/home/gposmlc113/h998_bill.xml.

^[2] 26 U.S.C. § 1231(b)(3) (1999).

^[3] "Federal Bill Would Reduce Capital Gains Holding Period for Horses to One Year," NATIONAL THOROUGHBRED RACING ASSOCIATION (Mar. 7, 2013), <http://www.ntra.com/en/news-media/press-releases/2013/3/7/federal-bill-would-reduce-capital-gains-holding-period-for-horses-to-one-year/>.

^[4] *Id.*

^[5] Tax Reform Act of 1969, Senate Report, 1969-3 C.B. 423 (I.R.S.), S. Rep. No. 91-552, 1959 WL 101215, Nov. 21, 1959.

^[6] *Id.*

^[7] *Id.*

^[8]

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